



ORDINANCE NO. 2024-01

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**AN ORDINANCE EXTENDING AN EXISTING MORATORIUM ON NEW CONNECTIONS TO THE CITY WATER SYSTEM IN THOSE AREAS NORTH/NORTHEAST OF BOB'S CREEK FROM NORTH FORK ROAD (EXCLUDING LANDS IDENTIFIED AS RIVERVIEW MEADOWS PHASES 2 AND 3), AND EAST OF THE INTERSECTION OF NORTH FORK ROAD AND MCDONALD ROAD DUE TO LACK OF WATER SYSTEM ADEQUACY FOR A SECOND SIX MONTH EXTENSION PERIOD; AND DECLARING AN EMERGENCY**

**WHEREAS**, the City of Nehalem is a home rule city under the laws of the State of Oregon and has a duly acknowledged Comprehensive Land Use Plan; and

**WHEREAS**, on November 14, 2022, the City council adopted Ordinance 2022-02, declaring a moratorium based on lack of water adequacy with respect to water pressure deficiencies and inadequate fire flows to allow new water connections in certain mapped areas within the City limits as well as serving properties located outside the City limits, and

**WHEREAS**, on January 9, 2023, the City Council adopted Resolution 2023-02, accepting a corrective program, which sets forth solutions necessary to correct the problem creating the need for the moratorium under ORS 197.530; and

**WHEREAS**, Section 2 of Resolution 2023-02 and ORS 197.530(1) provides that upon adoption of a corrective program, the effective date of the moratorium adopted through Ordinance 2023-02 will expire on July 6, 2023 unless otherwise extended; and

**WHEREAS**, on June 12, 2023, the City Council adopted Ordinance 2023-04, extending the moratorium for an additional six months from the previous July 6, 2023 expiration date or until January 9, 2024; and

**WHEREAS**, the City finds there is a continued demonstrated need to and prevent water pressure shortfalls that would occur if the moratorium does not remain in place; and

**WHEREAS**, pursuant to ORS 197.530(4), the City provided written notice to the Department of Land Conservation and Development on December 20, 2023, which is more than 14 days prior to the public hearing for adoption of this ordinance; and

**WHEREAS**, the City has made written findings justifying the need for further extension; and

**WHEREAS**, pursuant to ORS 197.530(2), on January 8, 2024, the City Council held a duly noticed public hearing on extending the existing moratorium based on lack of water system adequacy.

**NOW, THEREFORE, THE CITY OF NEHALEM ORDAINS AS FOLLOWS:**

**Section 1. Moratorium Extended.**

Based on the findings set forth in Exhibit B, the moratorium based on lack of adequate water service infrastructure for new development is extended for the areas identified in the map attached as Exhibit A.

While this moratorium is in effect, all development shall be subject to the following notice and restrictions:

1. Property owners and representatives shall be notified by staff of the moratorium at the earliest opportunity either during pre-application conferences or through the County land use review process. However, the failure to provide notice shall not alter the development restrictions imposed by this moratorium.
2. The City shall continue to cooperate with the County in processing land use permit applications during the moratorium period, and if approved, appropriate conditions shall be imposed restricting development until the required water pressure necessary to serve the proposed development is in place.
3. No new water connection request may be issued until these pressure and fire flow deficiencies within the existing system are remedied in compliance with the state and local water pressure and fire flow standards and the moratorium is lifted for those areas.

**Section 2. Term.** This moratorium shall be effective until July 9, 2024, unless otherwise extended in accordance with state law.

**Section 3. Effect on Unexpired Land Use Approvals.** For properties subject to this moratorium that have an approved land use review that has not yet expired, the expirations date for the approved land use review shall be extended by the length of this moratorium and any moratorium extensions.

**Section 4. Reporting.** The City Engineer shall regularly report to the City Council on the impact of the moratorium on development and the fire flow and water pressure conditions.

**Section 5. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

**Section 6. Emergency.** This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

**PASSED AND ADOPTED** by the City Council on this 8<sup>th</sup> day of January 2024; and

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Effective Date: January 8, 2024

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**APPROVED** by the Mayor this 8<sup>th</sup> day of January 2024.

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Phil Chick, Mayor

Attested:

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Lori Longfellow, City Manager

**First & Second Reading: January 8, 2024**

Ayes: \_\_\_\_\_  
Nays: \_\_\_\_\_  
Abstentions: \_\_\_\_\_  
Absent: \_\_\_\_\_

**Adopted: January 8, 2024**

Ayes: \_\_\_\_\_  
Nays: \_\_\_\_\_  
Abstentions: \_\_\_\_\_  
Absent: \_\_\_\_\_

Exhibits:  
Exhibit A - Map identifying the areas affected by moratorium  
Exhibit B – Findings